

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
SUPPLEMENTAL DOCKET NUMBER 1  
FOR THE REGULAR MEETING OF  
MONDAY, JUNE 30, 2003**

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ADOPTION AGENDA, CONSENT ITEMS

RESOLUTION:

\* ITEM-S400: Martin Luther King, Jr. Freeway Artwork Installation.

(Mount Hope Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1506)

Authorizing the City Manager to submit applications to CalTrans for a Federal TEA-21 grant and a local Minor-B grant for the Project;

Authorizing the City Manager to take all necessary steps to secure the grant funds from CalTrans, to provide funds for the Project;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, and payment requests, and administer the grant funds as necessary for the completion of the Project;

Authorizing the City Manager to negotiate and execute cooperative agreements with CalTrans for the installation of artwork on the retaining walls along the Martin Luther King, Jr. Freeway;

Authorizing the City Auditor and Comptroller to establish special funds for the TEA-21 grant funds and the Local Minor-B grant funds;

Authorizing the City Manager to accept \$300,000 in Federal TEA-21 grant funds, and \$36,000 in local Minor-B grant funds, contingent upon the receipt of a fully executed cooperative agreements;

Amending the Fiscal Year 2003 Capital Improvements Program, by adding CIP-

52-726.0, Martin Luther King, Jr. Freeway Artwork Installation;

Amending the Fiscal Year 2003 Capital Improvements Program Budget, by increasing CIP-52-726.0, Martin Luther King, Jr. Freeway Artwork Installation, by an amount not to exceed \$336,000, contingent upon receipt of the \$300,000 in Federal TEA-21 grant funds and \$36,000 in local Minor-B grant funds;

Authorizing the appropriation of an amount not to exceed \$336,000 in Federal TEA-21 and local Minor-B funds from the newly established funds in CIP-52-726.0, for the Project, contingent upon the receipt of a fully executed cooperative agreements;

Authorizing the expenditure of an amount not to exceed \$336,000 from CIP-52-726.0, Martin Luther King, Jr. Freeway Artwork Installation, for the purpose of providing funds for the Project, contingent upon receipt of a fully executed cooperative agreements, and provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are, or will be, on deposit with the City Treasurer.

#### **CITY MANAGER SUPPORTING INFORMATION:**

The State of California Department of Transportation has been awarded a \$300,000 TEA-21 grant from the Federal Government for the design and the installation of murals to be installed on the retaining walls of the interchange at State Route 94, State Route 15, and Home Avenue. These murals will commemorate Dr. Martin Luther King, Jr. for whom State Route 94 has been named. The State is contributing the \$36,000 in local matching funds.

The City has agreed to manage and oversee the design and installation of these murals on behalf of the State. This will include selection of the artist, overseeing the design of the murals, coordination of the plans, and construction or installation of artwork and inspection upon completion. The State will assist in this process to assure that the State and Federal guidelines are met.

Maintenance funding for five years will be provided by the \$36,000 in local matching funds, included in the \$336,000 total project cost.

The State will transfer the \$336,000 in TEA-21 and local matching funds to the City to fund this Project in its entirety.

#### **FISCAL IMPACT:**

The State will transfer \$336,000 to the City to fund this Project. No City funds will be used for this Project.

Belock/Boekamp/VW

## ADOPTION AGENDA, DISCUSSION, HEARINGS

### NOTICED HEARING:

#### ITEM-S401: Companion Unit Ordinance.

(Continued from the meeting of June 24, 2003, Item 330, at the request of Councilmember Maienschein, to direct staff to come back with a revision of the Companion Unit Ordinance that interprets the “most restrictive” regulations.)

Matter of approving, conditionally approving, modifying, or denying the following actions: 1) Adoption of an ordinance amending Sections 141.0303 (Companion Unit Regulations), 131.0422 (Use Regulations Table for Residential Zones), 103.0105 (General Provisions for Planned Districts), 126.0303 (When a Conditional Use Permit is Required), and 126.0704 (Exemptions from a Coastal Development Permit) of the San Diego Municipal Code and Local Coastal Program to permit companion units ministerially, as required by State law, with additional changes proposed related to process, public facilities, design, parking, and occupancy, as directed by the City’s adopted Housing Element.

The proposed Municipal Code amendments will be effective Citywide, including within the Coastal Zone, therefore the City Council’s decision requires amending the City’s Local Coastal Program. As a result, **the final decision on the proposed Municipal Code amendments will be with the California Coastal Commission.** The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment. If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Planning Department, Anna Shepherd, 202 “C” Street, MS 4A, San Diego, CA 92101, before the close of the City Council public hearing. If you wish to challenge the City’s action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

(See City Manager Report CMR-03-131. Amendments to the San Diego Municipal Code and San Diego Local Coastal Program/Addendum to EIR LDR-42-0718/PTS-4109. Citywide. Districts-All.)

### CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A; and adopt the resolutions in Subitems B and C:

Subitem-A: (O-2003-163)

Introduction of an Ordinance amending Chapter 10, Article 3, Division 1, of the

San Diego Municipal Code by amending Section 103.0105; amending Chapter 12, Article 6, Division 3, by amending Section 126.0303; and Division 7, by amending Section 126.0704; amending Chapter 13, Article 1, Division 4, by amending Section 131.0422; and amending Chapter 14, Article 1, Division 3, by amending Section 141.0302, all relating to companion units.

Subitem-B: (R-2003-1480)

Adoption of a Resolution certifying that the information contained in Addendum to an Environmental Impact Report [EIR], LDR-42-0718 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Companion Unit Ordinance;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above ordinance.

Subitem-C: (R-2003-1481)

Adoption of a Resolution authorizing the City Manager to suspend the assessment of any monetary administrative penalties authorized under Chapter One, Article Two of the San Diego Municipal Code for any code enforcement action related to companion units for a six month period commencing on the effective date of the Ordinance in Subitem A above, when adopted.

**NOTE:** Hearing open. Testimony taken on 6/24/2003.

**COMMITTEE ACTION:**

Reviewed by Land Use and Housing Committee on 5/21/2003. Motion to approve the City Manager's Report with four recommendations: a) Modify the minimum square foot lot size to 5,000 square feet; b) Require quarterly reports from City staff to local planning groups regarding companion unit applications and approvals; c) Institute a grace period and waive the fees for illegally built units to obtain a permit so they may come into compliance - staff should return to the City Council with recommendations regarding the length of the grace period; and d) Direct the City's legislative staff to work with the State to address and correct concerns related to local jurisdictions' issues being usurped by State legislation. Districts 1,2, 3, 6 voted yea. District 4 voted nay.

**OTHER RECOMMENDATIONS:**

Planning Commission on May 15, 2003, voted 7 - 0 to approve; ask the City Council to

consider amnesty program; was opposition.

Ayes: Steele, Ontai, Lettieri, Schultz, Brown, Chase, Garcia

The Community Planners Committee (CPC) on April 22, 2003, voted 18-6-1 in support of the draft companion unit regulations. CPC also voted 16-7-2 to change the minimum lot size to 5,000 square feet and voted 20-5-0 to request that the Development Services Department provide quarterly reports to community planning groups on companion unit applications.

This is a matter of City-wide effect. The following community groups have taken a position on the item:

In favor: Carmel Valley, City Heights, Clairemont Mesa, San Ysidro, Serra Mesa, Torrey Hills, Torrey Pines, University City, Uptown

Opposed: Eastern, Greater Golden Hill, Normal Heights, Tierrasanta

## **CITY MANAGER SUPPORTING INFORMATION:**

### **Background**

As defined by the State of California and the San Diego Municipal Code, a companion unit is an attached or detached unit that provides complete independent living facilities and that serves as an accessory use to a primary single dwelling unit. Companion units differ from guest quarters, which do not provide independent living facilities (i.e., the San Diego Municipal Code does not permit kitchens in guest quarters).

### **State Legislation**

In 1982, the State enacted legislation that requires jurisdictions in California, including charter cities, to either adopt local ordinances or use the State model ordinance to permit companion unit development. The legislation was based on finding that companion units are a potential source of affordable housing, that there is unmet need for new housing in California, that companion units are a cost effective means to provide housing without public subsidy, that they generate additional income for homeowners (thus improving their own housing affordability), and that companion units provide other non-economic benefits such as security and the ability to house elderly family members.

In 1994, the Legislature amended the statute to specify that “any second-unit ordinances adopted by local agencies should have the effect of providing for the creation of second units,” and that provisions of such ordinances “are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.”

In 2002, the Legislature further refined the requirements for local companion unit ordinances through Assembly Bill 1866 (AB 1866). AB 1866 (see Attachment 2) requires jurisdictions to

permit companion units ministerially, without discretionary review or public hearing, and to prohibit restrictions that arbitrarily preclude companion units unless specific findings regarding public safety and welfare are made. AB 1866 also provides that local ordinances may not preclude companion units in single family or multi-family zones, unless doing so would limit housing opportunities. Jurisdictions must review applications for companion units ministerially beginning July 1, 2003, or be in the process of adopting an ordinance within 120 days after July 1, 2003.

**FISCAL IMPACT:** None.

Ewell/Goldberg